

§ 240.104

49 CFR Ch. II (10–1–14 Edition)

(1) To accept responsibility for the training of student engineers and thereby obtain authority for that railroad to initially certify a person as an engineer in an appropriate class of service, or

(2) To recertify only engineers previously certified by other railroads.

A railroad that elects to accept responsibility for the training of student engineers shall state in its submission whether it will conduct the training program or employ a training program conducted by some other entity on its behalf but adopted and ratified by that railroad.

(c) A railroad's program is considered approved and may be implemented thirty days after the required filing date (or the actual filing date) unless the Administrator notifies the railroad in writing that the program does not conform to the criteria set forth in this part.

(1) If the Administrator determines that the program does not conform, the Administrator will inform the railroad of the specific deficiencies.

(2) If the Administrator informs the railroad of deficiencies more than 30 days after the initial filing date, the original program may remain in effect until 30 days after approval of the revised program is received.

(d) A railroad shall resubmit its program within 30 days after the date of such notice of deficiencies. A failure to resubmit the program with the necessary revisions will be considered a failure to implement a program under this part.

(1) The Administrator will inform the railroad in writing whether its revised program conforms with this part.

(2) If the program does not conform, the railroad shall resubmit its program.

(e) A railroad that intends to materially modify its program after receiving initial FRA approval shall submit a description of how it intends to modify the program in conformity with the specific requirements of this part at least 30 days prior to implementing such a change.

(1) A modification is material if it would affect the program's conformance with this part.

(2) The modification submission shall contain a description that conforms with the pertinent portion of the procedures contained in appendix B.

(3) The modification submission will be handled in accordance with the procedures of paragraphs (c) and (d) of this section as though it were a new program.

[56 FR 28254, June 19, 1991, as amended at 64 FR 60990, Nov. 8, 1999]

§ 240.104 Criteria for determining whether movement of roadway maintenance equipment or a dual purpose vehicle requires a certified locomotive engineer.

(a) A railroad is not required to use a certified locomotive engineer to perform the following functions:

(1) Operate specialized roadway maintenance equipment; or

(2) Operate a dual purpose vehicle that is:

(i) Being operated in conjunction with roadway maintenance and related maintenance of way functions, including traveling to and from the work site;

(ii) Moving under authority of railroad operating rules designated for the movement of roadway maintenance equipment that ensure the protection of such equipment from train movements; and

(iii) Being operated by an individual trained and qualified in accordance with §§ 214.341, 214.343, and 214.355 of this chapter.

(b) A railroad is required to use a certified locomotive engineer when operating a dual purpose vehicle other than in accordance with paragraph (a)(2) of this section.

[64 FR 60990, Nov. 8, 1999]

§ 240.105 Criteria for selection of designated supervisors of locomotive engineers.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) The railroad shall examine any person it is considering for qualification as a supervisor of locomotive engineers to determine that he or she:

(1) Knows and understands the requirements of this part;

(2) Can appropriately test and evaluate the knowledge and skills of locomotive engineers;

(3) Has the necessary supervisory experience to prescribe appropriate remedial action for any noted deficiencies in the training, knowledge or skills of a person seeking to obtain or retain certification; and

(4) Is a certified engineer who is qualified on the physical characteristics of the portion of the railroad on which that person will perform the duties of a Designated Supervisor of Locomotive Engineers.

(c) If a railroad does not have any Designated Supervisors of Locomotive Engineers, and wishes to hire one, the chief operating officer of the railroad shall make a determination in writing that the Designated Supervisor of Locomotive Engineers designate possesses the necessary performance skills in accordance with § 240.127. This determination shall take into account any special operating characteristics which are unique to that railroad.

[56 FR 28254, June 19, 1991, as amended at 64 FR 60990, Nov. 8, 1999]

§ 240.107 Criteria for designation of classes of service.

(a) Each railroad's program shall state which of the three classes of service, provided for in paragraph (b) of this section, that it will cover.

(b) A railroad may issue certificates for any or all of the following classes of service:

- (1) Train service engineers,
- (2) Locomotive servicing engineers, and
- (3) Student engineers.

(c) The following operational constraints apply to each class of service:

(1) Train service engineers may operate locomotives singly or in multiples and may move them with or without cars coupled to them;

(2) Locomotive servicing engineers may operate locomotives singly or in multiples but may not move them with cars coupled to them; and

(3) Student engineers may operate only under direct and immediate supervision of an instructor engineer.

(d) Each railroad is authorized to impose additional conditions or operational restrictions on the service an

engineer may perform beyond those identified in this section provided those conditions or restrictions are not inconsistent with this part.

(e) A railroad shall not reclassify the certification of any type of certified engineer to a more restrictive class of certificate or a student engineer certificate during the period in which the certification is otherwise valid.

[56 FR 28254, June 19, 1991, as amended at 74 FR 68182, Dec. 23, 2009]

§ 240.109 General criteria for eligibility based on prior safety conduct.

(a) Each railroad's program shall include criteria and procedures to implement this section.

(b) A railroad shall evaluate the prior safety conduct of any person it is considering for qualification as a locomotive engineer and the program shall require that a person is ineligible if the person has an adverse record of prior safety conduct as provided for in § 240.115, § 240.117, or § 240.119.

(c) The program shall require evaluation of data which reflect the person's prior safety conduct as a railroad employee and the person's prior safety conduct as an operator of a motor vehicle, provided that there is relevant prior conduct. The information to be evaluated shall include:

(1) The relevant data furnished from the evaluating railroad's own records, if the person was previously an employee of that railroad;

(2) The relevant data furnished by any other railroad formerly employing the person; and

(3) The relevant data furnished by any governmental agency with pertinent motor vehicle driving records.

(d) The railroad's process for evaluating information concerning prior safety conduct shall be designed to conform wherever necessary with the procedural requirements of §§ 240.111, 240.113, 240.115, 240.117, 240.119, and 240.217.

(e) When evaluating a person's motor vehicle driving record or a person's railroad employment record, a railroad shall not consider information concerning motor vehicle driving incidents or prior railroad safety conduct that